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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2019–0005; FXMB12610700000-190-FF07M01000]

RIN 1018–BD07

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska during the 2019 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Interim rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing migratory bird subsistence harvest regulations in Alaska for the 2019 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is

necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. The proposed rule for the 2019 season was delayed, requiring this interim rule to allow subsistence hunting to begin in April. We will respond to public comments, and based on public comments received, may revise this interim rule.

DATES: This rule becomes effective on April 2, 2019. We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on this interim rule by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–R7–MB–2019–0005.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS–R7–MB–2019–0005; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Place, MS: BPHC; Falls Church, VA 22041-3803.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Public Comments Solicited** and **Public Availability of Comments**, below, for more information).

FOR FURTHER INFORMATION CONTACT: Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786-3446.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We solicit comments or suggestions from the public. To ensure that any action resulting from this interim rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this interim rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by e-mail or fax or to an address not listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or e-mail address—will be posted on the Web site. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on <http://www.regulations.gov>.

In addition, comments and materials we receive, as well as supporting documentation used in preparing this interim rule, will be available for public inspection in two ways:

(1) You can view them on <http://www.regulations.gov>. Search for FWS–R7–MB–2019–0005, which is the docket number for this rulemaking.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the Division of Migratory Bird Management, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041-3803; (703) 358-1714.

Public Availability of Comments

As stated above in more detail, before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Why Is This Rulemaking Necessary?

This rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. This rule establishes regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer of 2019. This rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

Need for Interim Rule

To meet the April 2, 2019, opening season for Alaska subsistence harvest of migratory game birds, we are publishing an interim rule. We were not able to publish a proposed rule in 2019 due to unforeseen time constraints. We have engaged with stakeholders and they are understanding of this circumstance. We are providing an opportunity for public comment (30 days) with this interim rule (see **DATES**, above). This will help ensure that if we receive any public comments that we could propose those changes in the 2020 spring and summer subsistence harvest rule.

Our February 1, 2018, proposed rule (83 FR 4623) provided the public the opportunity to comment on the provisions in this interim rule. For subpart D of part 92 in title 50 of the Code of Federal Regulations (50 CFR part 92, subpart D), the provisions in this interim rule are the same as those set forth in our March 30, 2018, final rule (83 FR 13684); the amendments in the March 30, 2018, final rule to 50 CFR part 92, subpart C do not need to be readopted here. The March 30, 2018, final rule is the most recent Alaska migratory bird subsistence harvest final rule, and the public is familiar with it, having already commented on it. The public, having commented on the 2018 final rule and other previous final rules, also had an opportunity to comment on the substance of the current interim rule. We also addressed the three relevant comments received in the 2018 final rule. Furthermore, these Alaska subsistence harvest regulations have generally been similar the past several years, and with no significant controversy from the public. We do not intend to use an interim rule again for this purpose, as doing so prevents modifications to the regulations implemented in consultation with the Alaskan communities. We regret any confusion that this deviation from the normal rulemaking process may cause. In future Alaska migratory bird subsistence harvest

rulemaking actions, we expect to have a proposed rule earlier in the process to ensure meeting the April 2 opening date for the season.

Again, it would not be possible for us to publish a proposed rule, with a 30-day comment period, and then publish a final rule, by April 2. Therefore, without this interim rule, the subsistence hunting of migratory birds in Alaska during the normal season, which begins on April 2 each year, would be in violation of the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–712). To respect the subsistence hunt of many rural Alaskans, either for their cultural or religious exercise, sustenance, and/or materials for cultural use (e.g., handicrafts), the Department of the Interior finds that it is in the public interest to publish this interim rule. Under 5 U.S.C. 553(b), the Administrative Procedure Act allows an agency to make a rule effective without a proposed rule for good cause if “contrary to the public interest.” We find that the delay associated with public comment on a proposed rule to open the Alaska migratory bird subsistence harvest by April 2 is contrary to the public interest, and therefore the “good cause” exception under 5 U.S.C. 553(b) applies.

In addition, we have good cause to waive the standard 30-day effective date for this interim rule consistent with 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this rule will, therefore, take effect on April 2, 2019. This rule relieves a restriction, as just described. Delaying the effective date for 30 days would have detrimental effects on Alaskans seeking to conduct subsistence harvest during the season that begins April 2, 2019, and on the businesses that support this activity.

While we are taking these steps to ensure Alaskan subsistence hunters do not violate the MBTA, we invite public comment as described above in **DATES** and **ADDRESSES**.

Following our consideration of the comments received, we will respond to public comments, and based on public comments received, may revise this interim rule.

How Do I Find the History of These Regulations?

Background information, including past events leading to this rulemaking, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history, were originally addressed in the *Federal Register* on August 16, 2002 (67 FR 53511) and most recently on March 30, 2018 (83 FR 13684).

Recent *Federal Register* documents and all final rules setting forth the annual harvest regulations are available at <http://www.fws.gov/alaska/ambcc/regulations.htm> or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

What Is the Process for Issuing Regulations for the Subsistence Harvest of Migratory Birds in Alaska?

The U.S. Fish and Wildlife Service is establishing migratory bird subsistence-harvest regulations in Alaska for the 2019 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) did not hold its annual spring meeting in 2018 due to budget constraints. The Co-management Council did consider two proposals to administratively correct two aspects of the closed season in the Yukon/Kuskokwim Delta region in the 2019 regulations, and voted to approve these via

teleconference and email. These proposals will be included in next year's rulemaking.

This Interim Rule

This interim rule contains no changes from the final regulation amendments published on March 30, 2018 (83 FR 13684), for 50 CFR part 92, subpart D.

Who Is Eligible To Hunt Under These Regulations?

Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions opened the initial migratory bird subsistence harvest to about 13 percent of Alaska residents. The most populated portions of Alaska such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, the town of Kodiak, and Southeast Alaska were excluded from eligible subsistence harvest areas.

In response to petitions requesting inclusion in the harvest in 2004, we added 13 additional communities consistent with the criteria set forth at 50 CFR 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only in response to petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459, according to the latest census information at that time.

In 2007, we enacted the Alaska Department of Fish and Game's request to expand the

Fairbanks North Star Borough excluded area to include the Central Interior area. This action excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village, and Ferry, with a combined population of 2,812.

In 2012, we received a request from the Native Village of Eyak to include Cordova, Alaska, for a limited season that would legalize the traditional gathering of gull eggs and the hunting of waterfowl during spring. This request resulted in a new, limited harvest of spring waterfowl and gull eggs starting in 2014.

How Will the Service Ensure That the Subsistence Migratory Bird Harvest Complies with the Migratory Bird Treaty Act, and Will Not Threaten the Conservation of Endangered and Threatened Species?

We have monitored subsistence harvest for more than 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta.

Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. The MBTA’s 16 U.S.C. 712(1) provision states that the Service, “is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.” Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have

allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds.

As for the ensuring the conservation of species listed under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.), spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species are taken in several regions of Alaska. We have determined that this rule complies with the ESA (see **Endangered Species Act Consideration** discussion, below).

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect threatened species; (2) measures to address documented threats are implemented; and (3) the subsistence community and other conservation partners commit to working together. With these objectives in mind, the Service, working with North Slope partners, developed measures in 2009 to further reduce the potential for shooting mortality or injury of closed species. These conservation measures included: (1) Increased waterfowl hunter outreach and community awareness through partnering with the North Slope Migratory Bird Task Force; and (2) continued enforcement of the migratory bird regulations that are protective

of listed eiders.

This rule continues to focus on the North Slope from Utqiagvik (formerly known as Barrow) to Point Hope because Steller's eiders from the listed Alaska breeding population are known to breed and migrate there, and harvest survey data and direct observations indicate take during subsistence harvest has occurred there. These regulations are designed to address several ongoing eider-management needs by clarifying for subsistence users that (1) Service law enforcement personnel have authority to verify species of birds possessed by hunters, and (2) it is illegal to possess any species of bird closed to harvest. This rule also describes how the Service's existing authority of emergency closure will be implemented, if necessary, to protect Steller's eiders. We are always willing to discuss regulations with our partners on the North Slope to ensure protection of closed species while providing subsistence hunters an opportunity to maintain the culture and traditional migratory bird harvest of the community. These regulations pertaining to bag checks and possession of illegal birds are deemed necessary to monitor take of closed eider species during the subsistence hunt.

In collaboration with North Slope partners, a number of conservation efforts have been implemented to raise awareness and educate hunters in and around Utqiagvik on Steller's eider conservation via the local bird outreach festival, meetings, radio shows, signs, school visits, and one-on-one contacts. Limited intermittent monitoring on the North Slope, focused primarily at Utqiagvik, found no evidence that listed eiders were shot in 2009 through 2012; one Steller's eider and one spectacled eider were found shot during the summer of 2013; one Steller's eider was found shot in 2014; and no listed eiders were found shot in 2015 through 2018. Elsewhere in Alaska, one spectacled eider that appeared to have been shot was found

dead on the Yukon-Kuskokwim Delta in 2015.

The Service notes that progress is being made with the other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. However, Service staff have documented significant availability of lead shot in waterfowl rounds for sale in communities on the Yukon-Kuskokwim Delta and North Slope. Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled and Steller's eiders.

Lead shot has been banned nationally for waterfowl hunting since 1991, and this ban is further supported by local bans proposed by the North Slope Borough Fish and Wildlife Management Committee and the Association of Village Council Presidents—Waterfowl Conservation Committee since 2006 and 2007, respectively. The Service will work with partners and to increase our education, outreach, and enforcement efforts to ensure these bans are effective, and that subsistence waterfowl hunting is conducted using nontoxic shot.

The longstanding general emergency-closure provision at 50 CFR 92.21 specifies that the harvest may be closed or temporarily suspended upon finding that a continuation of the regulation allowing the harvest would pose an imminent threat to the conservation of any migratory bird population. With regard to Steller's eiders, the regulations at 50 CFR 92.32, carried over from the past 8 years, clarify that we would take action under 50 CFR 92.21 as is necessary to prevent further take of Steller's eiders, and that action could include temporary or long-term closures of the harvest in all or a portion of the geographic area open to harvest. When and if mortality of threatened eiders is documented, we would evaluate each mortality

event by criteria such as cause, quantity, sex, age, location, and date. We would consult with the Co-management Council when we are considering an emergency closure. If we determine that an emergency closure is necessary, we would design it to minimize its impact on the subsistence harvest.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to “review other programs administered by him (or her) and utilize such programs in furtherance of the purposes of the Act” and to “insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. . . .” We conducted an intra-agency consultation with the Service’s Fairbanks Fish and Wildlife Field Office on this interim rule. The consultation was completed with a biological opinion that concluded the interim rule and conservation measures are not likely to jeopardize the continued existence of Steller’s and spectacled eiders or result in the destruction or adverse modification of designated critical habitat. Based on comments submitted, we may confirm this finding in our future notice responding to public comments.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to “issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and

other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.”

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this rule establishes annual harvest limits related to routine hunting or fishing.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory

Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required.

Accordingly, a Small Entity Compliance Guide is not required. This rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Will not have an annual effect on the economy of \$100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule will lead to a disproportionate distribution of benefits.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, will not have an impact on prices for consumers.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It will

not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities. The rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than \$300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game also incurs expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed \$100,000 per year, but should not exceed \$150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule will not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations with Native American Tribal Governments

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat

protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the Statewide body.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, we are evaluating possible effects on Federally recognized Indian tribes. The provisions in this Interim Rule are the same as those set forth in last year's final Rule, where we consulted with the tribes. This rule-making process is collaborative with the Tribes, and we will continue to consult with the Tribes as we affirm the Interim Rule.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 et seq.). OMB has previously approved the information collection requirements associated with voluntary annual household surveys used to determine levels of subsistence take and assigned OMB Control No. 1018-0124 (expires 10/31/2019). You may view the information collection requirements at <http://www.reginfo.gov/public/do/PRAMain>. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in an October 2018 environmental

assessment, “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2019 Spring/Summer Harvest.” Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at <http://www.regulations.gov>.

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart D—Annual Regulations Governing Subsistence Harvest

2. Amend subpart D by adding § 92.31 to read as follows:

§ 92.31 Region-specific regulations.

The 2019 season dates for the eligible subsistence-harvest areas are as follows:

(a) *Aleutian/Pribilof Islands region*. (1) Northern Unit (Pribilof Islands):

(i) Season: April 2–June 30.

(ii) Closure: July 1–August 31.

(2) Central Unit (Aleutian Region’s eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):

(i) Season: April 2–June 15 and July 16–August 31.

(ii) Closure: June 16–July 15.

(iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and Moffet lagoons.

(iv) Special Tundra Swan Closure: All hunting and egg gathering closed in Game Management Units 9(D) and 10.

(3) Western Unit (Umnak Island west to and including Attu Island):

(i) Season: April 2–July 15 and August 16–August 31.

(ii) Closure: July 16–August 15.

(b) *Yukon/Kuskokwim Delta region*. (1) Season: April 2–August 31.

(2) Closure: 30-day closure dates to be announced by the Service’s Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President’s Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(3) Special Black Brant Season Hunting Closure: From the period when egg laying

begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(c) *Bristol Bay region*. (1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.

(2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).

(d) *Bering Strait/Norton Sound region*. (1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) Season: April 15–June 14 and July 16–August 31.

(ii) Closure: June 15–July 15.

(2) Remainder of the region:

(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) *Kodiak Archipelago region*, except for the Kodiak Island roaded area, which is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay.

Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) Season: April 2–June 30 and July 31–August 31 for seabirds; April 2–June 20 and July 22–August 31 for all other birds.

(2) Closure: July 1–July 30 for seabirds; June 21–July 21 for all other birds.

(f) *Northwest Arctic region.* (1) Season: April 2–June 14 and July 16–August 31 (hunting in general); waterfowl egg gathering April 2–June 14 only; seabird egg gathering May 20–July 12 only; hunting molting/non-nesting waterfowl July 1–July 15 only.

(2) Closure: June 15–July 15, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope region.* (1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30'W and south of the latitude line 70°45'N to the west bank of the Ikpiupuk River, and everything south of the latitude line 69°45'N between the west bank of the Ikpiupuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(iii) Special Black Brant Hunting Opening: From June 20–July 5. The open area consists of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30'W. This includes Peard Bay, Kugrua Bay, and Wainwright Inlet, but not the Kuk and Kugrua river drainages.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30'W and north of the latitude line 70°45'N to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45'N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 6 and July 7–August 31 for king and common eiders; April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders; June 16–July 15 for all other birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(4) All Units: yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region inadvertently entangled in subsistence fishing nets in the North Slope Region may be kept for subsistence use.

(5) North Coastal Zone (Cape Thompson north to Point Hope and east along the Arctic Ocean coastline around Point Barrow to Ross Point, including Iko Bay, and 5 miles inland).

(i) No person may at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of subparts C and D of this part.

(ii) Upon request from a Service law enforcement officer, hunters taking, attempting to take, or transporting migratory birds taken during the subsistence harvest season must present them to the officer for species identification.

(h) *Interior region.* (1) Season: April 2–June 14 and July 16–August 31; egg gathering

May 1–June 14 only.

(2) Closure: June 15–July 15.

(i) *Upper Copper River region* (Harvest Area: Game Management Units 11 and 13)

(Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 15–May 26 and June 27–August 31.

(2) Closure: May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Game Management Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) *Gulf of Alaska region*. (1) Prince William Sound Area West (Harvest area: Game Management Unit 6[D]), (Eligible Chugach communities: Chenega Bay, Tatitlek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(2) Prince William Sound Area East (Harvest area: Game Management Units 6[B] and [C]—Barrier Islands between Strawberry Channel and Softtuk Bar), (Eligible Chugach communities: Cordova, Tatitlek, and Chenega Bay):

(i) Season: April 2–April 30 (hunting); May 1–May 31 (gull egg gathering).

(ii) Closure: May 1–August 31 (hunting); April 2–30 and June 1–August 31 (gull egg gathering).

(iii) Species Open for Hunting: greater white-fronted goose; snow goose; gadwall; Eurasian and American wigeon; blue-winged and green-winged teal; mallard; northern

shoveler; northern pintail; canvasback; redhead; ring-necked duck; greater and lesser scaup; king and common eider; harlequin duck; surf, white-winged, and black scoter; long-tailed duck; bufflehead; common and Barrow's goldeneye; hooded, common, and red-breasted merganser; and sandhill crane. Species open for egg gathering: glaucous-winged, herring, and mew gulls.

(iv) Use of Boats/All-Terrain Vehicles: No hunting from motorized vehicles or any form of watercraft.

(v) Special Registration: All hunters or egg gatherers must possess an annual permit, which is available from the Cordova offices of the Native Village of Eyak and the U. S. Forest Service.

(3) Kachemak Bay Area (Harvest area: Game Management Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(k) *Cook Inlet* (Harvest area: portions of Game Management Unit 16[B] as specified below) (Eligible communities: Tyonek only):

(1) Season: April 2–May 31—That portion of Game Management Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Game Management Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier.

(2) Closure: June 1–July 31.

(l) *Southeast Alaska*. (1) Community of Hoonah (Harvest area: National Forest lands in

Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting (50 CFR part 100.3(a)):

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands):

(i) Season: glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay (Icy Cape to Point Riou), and coastal lands and islands bordering the Gulf of Alaska from Point Manby southeast to and including Dry Bay):

(i) Season: glaucous-winged gull egg gathering: May 15–June 30.

(ii) Closure: July 1–August 31.

3. Amend subpart D by adding § 92.32 to read as follows:

§ 92.32 Emergency regulations to protect Steller’s eiders.

Upon finding that continuation of these subsistence regulations would pose an imminent threat to the conservation of threatened Steller’s eiders (*Polysticta stelleri*), the U.S. Fish and Wildlife Service Alaska Regional Director, in consultation with the Co-management

Council, will immediately under § 92.21 take action as is necessary to prevent further take.

Regulation changes implemented could range from a temporary closure of duck hunting in a small geographic area to large-scale regional or statewide long-term closures of all subsistence migratory bird hunting. These closures or temporary suspensions will remain in effect until the Regional Director, in consultation with the Co-management Council, determines that the potential for additional Steller's eiders to be taken no longer exists.

Dated: March 27, 2019.

Margaret E. Everson,

Principal Deputy Director, U.S. Fish and Wildlife Service

Exercising the Authority of the Director for the U.S. Fish and Wildlife Service

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